

REMARKS

Claims 1, 2, and 5-28 are pending. Independent claims 1, 8, 18, 21, 24, and 27 have been amended. Claims 3 and 4 are canceled without prejudice, waiver, or disclaimer. No new matter has been added.

Claims 1-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dandurand (“Market Niche Analysis In the Casino Gaming Industry,” Journal of Gambling Studies, Vol. 6(1), Spring 1990), in view of Sheppard (U.S. Patent No. 6,026,397).

Neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest a computer-implemented method for analyzing data as recited in claim 1. For example, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest “providing the promotional offering as an award for one or more individuals in the further subset, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset” as recited in claim 1.

The application as filed describes several such examples, e.g.:

As an example, consider the following profiles (or gaming DNA) which are included in the results of the sample query described above with reference to 304 and 306:

Gaming DNA Type 1 Attribute Values	Gaming DNA Type 2 Attribute Values
Male	Male
Over age 40	Over age 40
Play over 10 times/month	Play over 10 times/month
Play on Saturday nights	Play on Saturday nights
Total amount played \$100-\$200	Total amount played \$500-\$600
Chinese food preference	Italian food preference
Rock’n’Roll music preference	Blues music preference

Table II

Both gaming DNA types 1 and 2 share the attribute values of the original query, i.e., males over age 40 who play at least 10 times per month and on Saturday nights. However, there are some key differences, i.e., single relational polymorphisms, which distinguish the individuals corresponding to these profiles in some respects that, as will be discussed, can be significant from a marketing or promotional perspective. For example, the individuals corresponding to the different gaming DNA types differ in the total amount played (\$100-\$200 vs. \$500-\$600), the cuisine preference (Chinese vs. Italian), and the music preference (Rock'n'Roll vs. the Blues). The significance of such differences with regard to the allocation of marketing and promotional resources will become apparent.

(Specification at p. 17, line 22 through p. 18, line 13.)

Dandurand describes presenting a “concept of market niche analysis” (page 74). “Frequently, small segments of consumers develop whose needs differ from those of general users of the product class, thus providing opportunities for ‘niche’ or ‘specialty’ brands (page 74). Market share for niche brands tends to be low because they are positioned to serve a small number of loyal customers. Niche brands are perceived by their buyers as specialty brands that satisfy their needs in the product class uniquely” (page 74). “Kotler (1988, pp. 35, 343) uses the work “nicemanship” when discussing “entering small but highly profitable markets” (page 75). “Schewe (1987, p. 53) defines “nichers” as “small firms that avoid direct clashes with larger competitors.” (page 75).

In addition to providing several definitions of niche, Dandurand describes a method for determining a premium slot player. “A deductive examination of the profile of the “typical” premium slot player could lead one to hypothesize that the premium slot player has a unique preference set (a unique set of benefits sought, i.e., a unique set of needs) compared to other slot

players. For example, the premium slot player might be seeking personal attention, a comfortable seat, a place to guard her purse, a clean playing area, and a well-lighted alcove of the casino” (page 84). Further, in Table 2, Dandurand describes that a premium niche profile of Las Vegas slot market as including a gambling budget of \$2404 and an advance planning of more than thirty days before a trip to Las Vegas (page 83).

Moreover, Sheppard describes identifying “complex patterns and relationships within large quantities of information” (col. 2, lines 22-25). “By defining these patterns and relationships in, for example, customer information, targeted marketing or promotion activities may be developed” (col. 2, lines 25-28). Sheppard describes that “[a]n additional technical advantage of the present invention is that it may be used in developing a marketing program for identifying customers that are most likely to respond to the marketing program” (col. 2, lines 28-30).

Accordingly, Dandurand, at best, describes identifying the niche market and the premium slot player and Sheppard, at best, describes developing targeted marketing for identifying customers that are most likely to respond to a marketing program by defining complex patterns and relationships within large quantities of information. The niche market includes loyal customers and is highly profitable. The premium slot player has a gambling budget of \$2404 and plans a trip to Las Vegas by more than thirty days. The description of the niche market and the premium slot player in Dandurand considered alone or in combination with the description of identifying customer that are most likely to respond in Sheppard does not describe or suggest providing the promotional offering as an award for one of the individuals of the further subset that plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset as recited in claim 1. The one or more individuals belong to the further subset. Rather, the description of the niche market that has loyal customers and is highly profitable and the premium slot player who has the above-

mentioned gambling budget and the identification of the customers who are more likely to respond to a marketing program teaches away from providing the promotional offering as an award for one of the individuals of the further subset that plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset. Hence, claim 1 is patentable over Dandurand in view of Sheppard.

Further, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest a player tracking system as recited in claim 18. For example, for at least the reasons set forth above neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest the player tracking system including the central processing unit operable to “provide the promotional offering as an award for one or more individuals in the further subset, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset.”

Moreover, for at least the same reasons set forth above, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest, for example, “providing the promotional offering as an award for one or more individuals in the further subset, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset” as recited in claim 21. Further, for at least the same reasons set forth above, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest, for example, “providing the promotional offering as an award for one or more individuals in at least one of the further subsets, wherein one of the individuals in the at least one of the further subsets plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the at least one of the further subsets” as recited in claim 24. For at least the reasons set forth above, neither Dandurand nor Sheppard, considered alone or in combination, describe or suggest, for example, “awarding one or more individuals in the further subset with

the promotional offering, wherein one of the individuals of the further subset plays a number of games by betting a total amount lower than any of the individuals of the first subset that are excluded from the further subset” as recited in claim 27. Hence, independent claims 18, 21, 24, and 27 are also patentable over Dandurand in view of Sheppard.

The various pending dependent claims include the limitations of the corresponding independent claims. Accordingly, dependent claims 2, 5-17, 19, 20, 22, 23, 25, 26, and 28 are patentable over Dandurand in view of Sheppard. Hence, for at least the reasons set forth above, Applicants respectfully request that the Section 103 rejection of claims 1-28 be withdrawn.

## **CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. Early favorable consideration of this Amendment is earnestly solicited and Applicants respectfully request that a timely Notice of Allowance be issued in this case. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (510) 663-1100.

Respectfully submitted,

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